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August 3, 2014

Re: United States of America, et al. v. American Express Co., et al.,  
Case No. 10-cv-4496 (NGG) (RER)

Dear Judge Garaufis:

In compliance with this Court's direction, and consistent with their request in connection with Pamela Codispoti's testimony, Defendants write to inform the Court that we will ask to close the courtroom during the testimony of Scott Miller (Delta Air Lines). Defendants expect to call Mr. Miller on Wednesday, August 6.

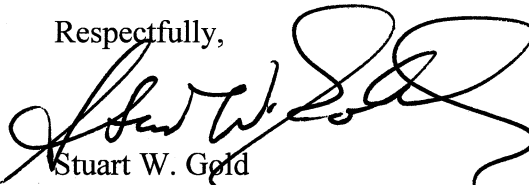
Mr. Miller was General Manager of Domestic Partnership Market for Delta who personally negotiated several agreements with American Express ("Amex"). These highly commercially sensitive contracts were the subject of separate confidentiality motions (supported by detailed declarations) filed by Amex and its co-brand partners. The Government did not oppose Amex's and its partners' requests to seal the co-brand agreements, and ultimately stipulated that the Court should seal these documents and allow redaction of other documents reflecting their terms and negotiations. The Court so-ordered the parties' stipulation on July 3, 2014.

Most of Mr. Miller's testimony will concern these materials that have been filed under seal or redacted. We expect that Mr. Miller will describe in detail Delta's co-brand agreements and negotiations with Amex.

At this time, Defendants are especially sensitive to confidentiality concerns surrounding co-brand agreements, as Defendants are presently in the midst of negotiations with certain co-brand partners. Public disclosure of any confidential deal terms—including how certain partners were able to obtain such terms—will have a detrimental impact on Amex's business.

The Government has informed Amex that it does not oppose Amex's request to seal the courtroom for Mr. Miller's testimony.

Respectfully,



Stuart W. Gold

The Honorable Nicholas G. Garaufis  
United States District Court  
Eastern District of New York  
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